

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8500 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

BABUBHAI NANJIBHAI

Versus

DISTRICT MAGISTRATE

Appearance:

HL PATEL ADVOCATES for Petitioner

MS PUNANI AGP for Respondent No. 1, 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 05/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 2nd September, 1998, made by the District Magistrate, Bhavnagar, under the powers conferred upon him under sub-section (2) of section 3 of the Gujarat

Prevention of Anti Social Activities Act, 1985
(hereinafter referred to as 'the Act').

The grounds of detention reveal that the petitioner is a 'bootlegger' and his activities are prejudicial to the maintenance of law and order. As many as 11 prohibition cases are registered against the petitioner, 10 of which are pending trial, and one is pending investigation. The petitioner's bootlegging activities are alleged to affect the security of the people at large and also their life. Besides, the petitioner also intimidated the persons who tried to prevent him or who tried to come in the way of his bootlegging activities. It is the categorical statement of the petitioner that some of the documents which have been considered by the Detaining Authority for recording subjective satisfaction, are in English. The petitioner, however, does not know English and has not been able to understand the contents of the said documents, thereby the petitioner's right to make effective representation is prejudiced. Under his representation dated 19th September, 1998, the petitioner had brought this fact to the notice of the concerned authorities and had demanded the Gujarati translation of those documents. It is undisputed that such Gujarati translations were not furnished even after the demand for the same. Though the Detaining Authority has made a counter-affidavit, it is not controverted that the petitioner does not know English. The uncontroverted statements made on oath must be believed to be true. It is needless to say that the petitioner has a Constitutional as well as a statutory right to make a representation against the order of detention and for making an effective representation, the petitioner has to be furnished all the supporting material in the language which he is able to understand. In the present case, this having not been done, the continued detention of the petitioner is vitiated. Since I am of the view that this ground alone is sufficient to set aside the impugned order of detention, I do not deal with other contentions raised by Mr. Patel.

For the reasons recorded in the judgment, this petition is allowed. The impugned order dated 2nd September, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI